

Application of Robert Getts
Serial No. 09/802,162 filed 3/8/2001
Response of 3/30/2005 to Office Action of 9/30/2004

Remarks

Receipt is acknowledged of the Office Action of September 30, 2004 in the above-captioned matter. Reconsideration of the application and a three month extension of the time provided for a response are requested. The Commissioner is hereby authorized to charge Deposit Account 50-1604 for all amounts required in connection with the present application and response.

In the Office Action, the claims were rejected under 35 U.S.C. §103(a) based on Dellinger et al. (U.S. Patent No. 5,853,993) in combination with Nilsen et al. (U.S. Patent No. 6,274,723). Reconsideration of the rejections is respectfully requested.

With respect to the independent claims, although the Office Action asserted that various aspects of the invention are present in the Nilsen reference (U.S. Patent No. 6,274,723), the citations provided do not appear to support those assertions. For example, citations are present to columns 19 and 20 in Nilsen, but Nilsen ends at column 18. Accordingly, withdrawal of those rejections or clarification thereof is respectfully requested.

Furthermore, although the Office Action indicated that the various limitations of the claims are taught by the Dellinger reference, no citations are provided within that reference for numerous of those limitations. As one example, claims 2 and 22 are directed to a method utilizing a reverse transcriptase and an RT primer having the capture sequence. Counsel has been unable to locate any reference to this invention in Dellinger (or in Nilsen) or any specific citation thereto in the Office Action. As another example, claims 4, 19, and 24 recite various aspects of the invention utilizing a spin column. Counsel has been unable to locate any reference to the use of a spin column in Dellinger or Nilsen either.

In view of the above, withdrawal of the rejections under 35 U.S.C. §103(a) is respectfully requested.

The only remaining rejections in the application are the provisional double patenting rejections. Of the co-pending applications cited, since the present application is believed to be the application with the earlier filing date (in view of its earliest serial number), withdrawal of the double patenting rejections is requested. As set forth in MPEP 804 I.B. (Aug. 2001, p. 800-19):

"The "provisional" double patenting rejection should continue to be made by the examiner in each application as long as there are conflicting claims in more than one application unless that "provisional" double patenting rejection is the only rejection remaining in one of the applications. If the "provisional" double patenting rejection in one application is the only rejection remaining in that application, the examiner should then withdraw that rejection and permit the application to issue as a patent, thereby converting the "provisional" double patenting rejection in the other application(s) into a double patenting rejection at the time the one application issues as a patent.

If the "provisional" double patenting rejections in both applications are the only rejections remaining in those applications, the examiner should then withdraw that rejection in one of the applications (e.g., the application with the earlier filing date) and permit the application to issue as a patent. The examiner should maintain the double patenting rejection in the other application as a "provisional" double patenting rejection which will be converted into a double patenting rejection when the one application issues as a patent."

Thus, withdrawal of the double patenting rejections is requested. In the event that the double patenting rejection is maintained, it is requested that the details of application serial number 10/234,069 be provided (e.g. title, inventors, filing date and identity of counsel of record). This will enable us to determine whether this is a matter currently in our files and/or track down the application of interest.

It is also noted that a minor amendment has been made to claim 1 to correct a typographical error therein with respect to the internal numbering in the claim. This amendment is not intended to have any effect on the scope of the claim, as the internal numbering within the claims is not intended

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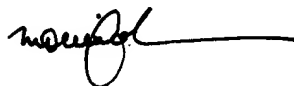
to have any substantive significance.

Lastly, several new claims have been added herein claiming the use of dual or multiple channel analysis. These claims are believed to be patentable over Dellinger and Nilsen as well.

Accordingly, it is respectfully requested that all of the pending rejections be withdrawn and that present application be forwarded to allowance.

Dated: March 29, 2005

Respectfully submitted,



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